

United Kingdom

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Freedom of the Press

Although the United Kingdom maintained a largely open press environment, conditions for independent media and investigative reporting deteriorated somewhat in 2013. A long-awaited reform of the libel laws raised the threshold for initiating cases and has the potential to curb “libel tourism.” However, a number of negative developments stemmed from the government’s response to the revelations of surveillance by the American and British intelligence agencies. These included a raid on the newsroom of the *Guardian* newspaper, which broke the story, as well as negative verbal rhetoric and the threat of further legal action against the paper during the year. Meanwhile, the debate surrounding the reform of the self-regulatory framework for print media continued, with several newspaper owners at odds with the decision taken by parliament to establish a new body under a royal charter.

The laws provide for freedom of the press, and the government generally respects this right in practice. While antiquated legal provisions that criminalized blasphemy and blasphemous libel were abolished in 2008, several laws that weaken press freedom remain in place. The media can be required to turn over reporting materials to the police under the 1984 Police and Criminal Evidence Act. In the aftermath of the July 2005 terrorist bombings on London’s mass transit system, the government passed the 2006 Terrorism Act. Certain provisions of the law criminalize speech that is considered to encourage terrorism, even in the absence of a direct, proven link to a specific terrorist act. The 2006 Racial and Religious Hatred Act criminalized incitement of religious hatred or violence, and using threatening words or behavior or displaying any threatening written material is considered an offense if the intended purpose is inciting religious hatred. The same is true for material that is broadcast. In a small victory, legislators voted to remove the offense of insult from Section 5 of the 1986 Public Order Act in January 2013. The amendment was due to come into effect in 2014.

Insult is still an offense on the internet, however. The 2003 Communications Act prohibits any message from being sent through a public electronic communications network that is “grossly offensive or of an indecent, obscene, or menacing character.” After several controversial cases of internet users prosecuted for posting comments online, the Crown Prosecution Service set up new guidelines for social media in June 2013. The guidelines set a high threshold for prosecuting social media communications and advised prosecutors not to go forward if the poster “expresses genuine remorse.” Earlier, in May, 11 people were arrested for making racist or antireligious comments after the murder of British soldier Lee Rigby by Muslim extremists.

There are no restrictions on internet access. In keeping with European Union (EU) policy, a 2009 law requires communications service providers to retain certain limited usage records for one year. Intelligence, law enforcement, and other agencies may access such data—which do not include the content of communications—without judicial permission for a variety of reasons, including crime detection, national security, and the “economic well-being” of the country. However, the system includes procedural and institutional safeguards against abuse, and there are departments in place to handle public complaints. A draft communications data bill introduced in 2012 would have required internet and telephone companies to retain a much greater range of information about online communications, including on social media, e-mail, mobile phone calls, and voice calls placed over the internet. The so-called Snoopers’ Charter was shelved due to opposition from the Liberal Democrats in 2013.

Critics contended there was no need for such a bill after the story broke out about the massive-scale surveillance of telephone and internet communications by the U.S. National Security Agency (NSA) and its British counterpart, the Government Communications Headquarters (GCHQ). The offices of the *Guardian*, which published the leaks received from former NSA contractor Edward Snowden, came under various types of pressure from the government during the year. In July 2013, two security agents ordered journalists to destroy newsroom hard drives. In August, David Miranda, the partner of investigative journalist Glenn Greenwald, who broke the story, was detained at Heathrow Airport and interrogated for the maximum nine hours allowed under Schedule 7 of the Terrorism Act. Police at the airport also seized journalistic material he was carrying. Prime Minister David Cameron urged a House of Commons select committee in October to investigate potential breaches by the newspaper. In a chilling move in December, committee members at an official hearing accused *Guardian* editor Alan Rusbridger of helping terrorists; police were examining whether an official investigation should start against newspaper staff at year's end. Also in December, the government proposed removing current safeguards against seizure of journalistic materials by making it possible to authorize confiscations in secret court hearings. The move was set to come before the House of Commons early in 2014.

In a positive step, libel laws in England and Wales that heavily favored the plaintiff and led to the emergence of the infamous phenomenon of "libel tourism" were significantly overhauled in April 2013. The Defamation Act 2013 redefined the threshold for defamation to include only "serious" harm, freeing up court time and shifting the balance between reputation and free speech in favor of the latter. The act protects website operators, internet service providers (ISPs), and other intermediaries from being sued based on user-generated content, such as comments; it also makes it more difficult for foreigners to bring libel cases in the United Kingdom unless they prove it is "clearly the most appropriate" place for the suit. Several cases initiated by wealthy foreigners had already been dismissed at year's end. In addition, the act codified a public interest defense, replacing the so-called Reynolds defense under common law with a more streamlined procedure under which a statement is protected if its content is in the public interest and the person expressing it reasonably believed its publication to be in the public interest.

A privacy injunction can be sought to prohibit the publication of private or confidential information. In the first half of 2013, there was a slight increase in the number of new injunctions requested: six new applications were filed compared with three in the second half of 2012. On rare occasions, the courts impose so-called "superinjunctions," which forbid the media from even reporting on the existence of the injunction itself. The media have criticized the increasing use of these "gag orders," claiming that they allow the rich and powerful to be legally exempt from journalistic investigation. However, no such injunctions were sought in the first half of 2013.

Freedom of information is guaranteed under the 2000 Freedom of Information Act. The act, which came into force in 2005, contains a number of broad exceptions. "Absolute" exemptions act as unconditional barriers to the disclosure of information. With "qualified" exemptions, a determination is made as to whether the public interest is better served by withholding or disclosing the information; also, a ruling is made on whether to reveal what particular information has been withheld. Although the law includes 24 such exemptions, the Information Commissioner's Office—established in 2000 to address freedom of information complaints—has been praised by civil society groups. The government proposed amendments in November 2012 that would make it easier for public authorities to refuse "disproportionately burdensome" requests on cost grounds. Freedom of information organizations strongly opposed the amendments and the government stated at the end of 2013—reacting to a letter written by 76 organizations—that it would consult the public on proposed changes.

Broadcast media are regulated by the Office of Communications (Ofcom). Until recently, the print sector operated under a voluntary, self-regulating mechanism, overseen by a Press Complaints Commission whose rulings had no legal force. In response to the 2011 *News of the World* phone-hacking scandal, the

prime minister launched a public inquiry, led by Lord Justice Leveson, into the ethical lapses of the tabloid press and the reform of the discredited Press Complaints Commission, which acted as the self-regulatory body for print media in the country. A criminal trial also started in October 2013 against staff at News Corporation, publisher of the now-defunct *News of the World* and of *The Sun*, which has also been involved in phone-hacking. The Leveson report, released in November 2012, recommended the establishment of an independent regulatory body for print media with statutory underpinnings. After several months of talks characterized by repeated criticism from press freedom advocates and heavy opposition from representatives of the news industry, the government decided to use an arcane legal mechanism, the royal charter, to establish the regulatory body. Proponents of this model argued that it provides a press regulator that is free of interference from both the political sphere and the newspaper industry. Critics and the majority of the newspaper industry, however, claimed that any regulation beyond self-regulatory mechanisms could be harmful and could set a bad precedent for other countries.

Under the royal charter, approved by the Queen at the end of October 2013, a recognition panel of four to eight independent persons will be established and charged with appointing and overseeing members of the new regulatory body. The body will be responsible for drafting a new press code, will put in place a fast complaints system and an arbitration system for victims of abuse, and will be capable of imposing fines of up to £1 million (\$1.6 million). Newspapers can set up their own self-regulatory body, but they have to meet the standards set by the Royal Charter. Newspapers that refuse to sign up could be subject to punitive damages unless they can prove it would cause them “serious financial harm.” To eliminate political interference, a new provision was added at the last minute making amendments to the charter possible only by a two-thirds majority in both houses and the unanimous agreement of the recognition panel. The newspaper industry, however, argued that the process of adopting the new regulator was not transparent and launched its own regulator, the Independent Press Standards Organization. As of year’s end, the vast majority of national newspapers supported the new organization, but this did not include major outlets such as the *Guardian*, the *Financial Times*, and the *Independent*.

Physical attacks on the media are rare in the United Kingdom. However, there were a number of incidents of harassment and assaults on journalists in Northern Ireland in 2012, and threats continued in 2013. In July, a French photographer was assaulted and his camera was stolen during rioting in east Belfast. As of the end of 2013, no one had been brought to justice for the 2001 murder of journalist Martin O’Hagan, who is believed to have been killed for his investigations into cooperation among Northern Ireland police, military intelligence officials, illegal armed groups, and drug gangs. Instead, the testimony of a key witness was dismissed by prosecutors in February.

The United Kingdom has a strong tradition of public broadcasting, and the British Broadcasting Corporation (BBC), which is publicly funded, is editorially independent. The year 2013 was, however, a particularly bad year for the broadcaster; its reputation was seriously damaged by a strain of sex-abuse scandals by former and current employees and the awarding of large severance payments to senior staff. Ownership of private media outlets is concentrated in the hands of a few large companies, including News Corporation, but a variety of national newspapers cover the full range of the political spectrum. Following the *News of the World* scandal, critics of the existing media structure, including Lord Justice Leveson, argued for stricter ownership rules. The broadcast regulator Ofcom, however, argued against absolute limits on ownership and concluded in its regular review, published in November 2012, that the current system did not need any immediate changes. Still, the opposition Labour Party pushed for a 30 percent cap on market share and a 15 percent cap on cross-media ownership in June 2013, and the government decided to hold public consultations on the issue in July. Few commercial news radio stations exist, and the handful in operation are reportedly struggling financially. The BBC offers a wide range of regional and local radio stations. There are a number of independent terrestrial television news channels, including ITV and BSkyB, and satellite and cable channels are capturing a growing share of the market. In 2013, about 90 percent of households in the United Kingdom had internet access.

2014 Scores

Press Status

Free

Press Freedom Score

(0 = best, 100 = worst)

23

(0 = best, 30 = worst)

8

(0 = best, 40 = worst)

10

(0 = best, 30 = worst)

5